

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**SCOTT R. MARCUM AND KERSTIN  
MARCUM ,**

**Plaintiff,**

**v.**

**COLUMBIA GAS TRANSMISSION,  
LLC., COLUMBIA GAS TRANSMISSION  
COMMUNICATIONS CORPORATION,  
CROWN CASTLE INTERNATIONAL  
CORP., AND PERCHERON, LLC,  
Defendants.**

**CIVIL ACTION**

**NO. 19-3873**

**ORDER**

**AND NOW**, this 20th day of November, 2019, upon consideration of Defendant Columbia Gas Transmission LLC's Motion to Dismiss and Briefing in Support (ECF Nos. 8, 9), Plaintiff's Memorandum in Opposition (ECF No. 19), Columbia Gas Transmission LLC's Reply (ECF No. 22), as well as Defendant Crown Castle International Corporation's Motion to Dismiss and Briefing in Support (ECF No. 12), Plaintiff's Memorandum in Opposition (ECF No. 23), and Crown Castle International Corporation's Reply Brief (ECF No. 30), **IT IS ORDERED** that the Motions to Dismiss for Failure to State a Claim are **GRANTED IN PART** and **DENIED IN PART** as follows:

1. Columbia Gas Transmission LLC's Motion to Dismiss Count One (fraudulent concealment) is **GRANTED**. Count One is **DISMISSED WITHOUT PREJUDICE**.
2. Columbia Gas Transmission LLC's Motion to Dismiss Count Two (negligent construction and failure to maintain) is **DENIED**.
3. Crown Castle International LLC's Motion to Dismiss Count Three (negligent maintenance) is **DENIED**.

4. Defendants Columbia Gas Transmission LLC's and Crown Castle International LLC's Motion to Dismiss Count Four (Storm Water Management Act violations, nuisance, and trespass) is **GRANTED IN PART** as it pertains to the Storm Water Management Act claims and nuisance claim. These claims are **DISMISSED WITHOUT PREJUDICE**. As the motion pertains to the trespass claim, the motion is **DENIED**.

**IT IS FURTHER ORDERED** that Columbia Gas Transmission LLC's Motion to Dismiss Count Two (negligent construction and failure to maintain) for Lack of Subject Matter Jurisdiction is **DENIED**.

**BY THE COURT:**

/s/Wendy Beetlestone, J.

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**WENDY BEETLESTONE, J.**